

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

FIRST SET OF INFORMATION REQUESTS OF SHREWSBURY'S ELECTRIC LIGHT  
PLANT TO FIBER TECHNOLOGIES NETWORKS, L.L.C.

D.T.E. 01-70  
November 13, 2001

Witness Responsible: Charles Stockdale, VP & Corporate Counsel, Fibertech

SELP 1-1: Please provide Fibertech's incorporation documents.

RESPONSE: Fibertech will provide the organization papers of Fiber Technologies Networks, L.L.C. Fibertech objects to the extent this request call for organization papers of other entities or other documents not relevant to the issues in dispute.

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Witness Responsible: Charles Stockdale, VP & Corporate Counsel, Fibertech and Frank  
Chiaino, Chief Operating Officer, Fibertech

SELP 1-2: (a) What is the relationship between Fibertech and a company that is, or was,  
doing business as "White Night."

(b) Please provide all documents relating to the relationship between Fibertech  
and "White Knight."

RESPONSE: (a) Fibertech purchased the assets of White Knight Communications, Inc.,  
through its affiliate Fiber Technologies Operating Company, LLC, which has  
since been renamed "Fiber Technologies Construction Company, LLC.

(b) We are not producing documents protected by the attorney-client privilege or  
the work product doctrine. Fibertech will produce documents sufficient to show  
the foregoing information, and objects to the extent this request calls for other  
documents as not relevant to the issues in dispute.

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Witness Responsible: Charles Stockdale, VP & Corporate Counsel, Fibertech

SELP 1-3: Please provide copies of any pole attachment or aerial license agreements that Fibertech has executed with any utility pole owner or co-owner in Massachusetts.

RESPONSE: Fibertech is not producing documents protected by the attorney-client privilege or the work product doctrine. All other documents will be provided.

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Witness Responsible: Charles Stockdale, VP & Corporate Counsel, Fibertech

SELP 1-4: Please refer to Paragraph 33 of the Complaint. If it is Fibertech's allegation that no municipal grant of location is required in Shrewsbury in order to attach its dark fiber to SELP's poles, please explain why has Fibertech applied for a grant of location pursuant to G.L. c. 166, § 22 in Shrewsbury.

RESPONSE: Fibertech applied for a grant of location in Shrewsbury because, ultimately, such grants of location will be necessary to construct its network, and Fibertech is seeking to expedite the process. Moreover, Fibertech was aware of SELP's claim such a grant of location is necessary before Fibertech can obtain pole attachments and, without waiving its disagreement with this claim, sought to deprive SELP of this excuse. Furthermore, this application has been helpful in exploring the possibility that SELP and the Town of Shrewsbury may be acting in concert to obstruct or delay Fibertech's construction of a network in Shrewsbury.

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Witness Responsible: Mario Rodriguez, Director of Governmental Affairs and Facilities Access,  
Fibertech

SELP 1-5: Please provide copies of all documents concerning Fibertech's attempts to seek  
attachment to SELP's poles.

RESPONSE: Fibertech is not producing documents protected by the attorney-client privilege or  
the work product doctrine. All other documents will be provided.

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Witness Responsible: Charles Stockdale, VP & Corporate Counsel, Fibertech

SELP 1-6: Please refer to Paragraph 4 of the Complaint.

(a) Does Fibertech currently have any signed leases for its "dark fiber for use by communications carriers?"

(b) If so, please provide copies of such leases.

RESPONSE: (a) Yes. See Testimony of Frank Chiaino, Page 3, Paragraphs 18-23, Page 4, Paragraphs 2-19.

(b) Fibertech objects to producing such leases on the grounds that they are irrelevant to the issues in dispute and that certain of these leases are competitively sensitive and therefore confidential. These leases are for dark fiber, and since there is no dispute that Fibertech is a dark fiber carrier and it is SELP's position that a dark fiber carrier is not a "licensee" within the meaning of G.L. c. 166 § 25A, the leases are therefore immaterial. In this light, the burden of seeking protective treatment or obtaining authorization from Fibertech's customers to produce outweighs any marginal probative value of these leases. Fibertech further objects to producing leases of customers that do not do business in Massachusetts.

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Witness Responsible: Charles Stockdale, VP & Corporate Counsel, Fibertech

SELP 1-7: Please provide all copies of all documents concerning Fibertech's "dark fiber" customers, including terms and conditions and rates for services offered.

RESPONSE: Please see Response to SELP 1-6. To the extent that this calls for documents beyond those called for in SELP 1-6, Fibertech objects to the requests as vague, burdensome, and not relevant. Fibertech further objects that the request calls for confidential marketing material.

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Witness Responsible: Charles Stockdale, VP & Corporate Counsel, Fibertech

SELP 1-8: Please provide copies of all documents concerning Fibertech's local exchange voice, interexchange and data services customers.

RESPONSE: Please see responses to SELP 1-6 and 1-7.



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Witness Responsible: Frank Chiaino, Chief Operating Officer, Fibertech

SELP 1-9: Please refer to Paragraph 30 of the Complaint. Please state all facts relied upon to support the statement that "Fibertech's fiber is 'cable for the transmission of intelligence'."

RESPONSE: Fibertech's fiber optic cable has transmission capabilities of 10 to 40 gigabits capable of supporting SONET, dense wave division multiplexing, ATM, and video. It can provide carriers with telecommunications capacity levels from OC3 to OC192. The entire reason for constructing is to put in place facilities capable of transmitting intelligence consisting of voice, data, and video information in the form of optical impulses.

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Witness Responsible: Charles Stockdale, VP & Corporate Counsel, Fibertech (SELP 1-10 (b))  
and Frank Chiaino, Chief Operating Officer, Fibertech (SELP 1-10 (a))

SELP 1-10: Please describe in detail the technical steps that must be taken by Fibertech in order to light its fiber optic cable.

(a) Please include in your description, from a technological perspective, what exactly must be done by Fibertech in order for it to offer, itself, local exchange voice, interchange and data services to end users in Massachusetts.

(b) Also include in this description any necessary licenses and agreements that must be secured by Fibertech in order to offer such service, and provide copies of any such license and agreements that Fibertech has executed, including any interconnect agreements in Massachusetts.

RESPONSE: (a) To offer local exchange voice, interexchange and data services to communications carriers, educational and governmental institutions and large businesses, it is not necessary to light Fibertech's fiber optic cable. For Fibertech to provide such services to end users would require at a minimum placing light transducers at each end of the fiber. The precise technical steps would depend on the types of service offered.

(b) No additional governmental licenses would be required to light Fibertech's fiber optic cable. However, insofar as doing so would result in additional services not covered by Fibertech's present tariffs, Fibertech would amend its tariffs or file additional tariffs. No agreements would be required for Fibertech to light its fiber optic cable (other than agreements with providers of hardware or software used to light the fiber). Certain services offered over the lit fiber could require interconnection agreements or additional tariffed services from other local exchange providers or interexchange providers.

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Witness Responsible: Frank Chiaino, Chief Operating Officer, Fibertech

SELP 1-11: Please refer to Paragraphs 4 and 28 of the Complaint. In reference to the statement that "[a]s market conditions and economic conditions dictate, Fibertech intends to supplement these offerings with additional services including local exchange voice and data services...", does Fibertech currently offer such local exchange voice, interchange or data services to any customers in Verizon's service territory?

RESPONSE: Fibertech objects to this request on the grounds that it calls for a legal conclusion. Without waiving its objection, Fibertech responds that, as described in Paragraph 28 of the Complaint, the dark fiber that Fibertech offers is "local exchange voice, interexchange or data services." Fibertech is currently offering such services in Verizon's territory in New York.

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Witness Responsible: Charles Stockdale, VP & Corporate Counsel, Fibertech

SELP 1-12: Please refer to Paragraph 4 of the Complaint. Please provide all documents, including any business plans, internal memoranda, and promotional materials concerning the "market conditions and economics" that would lead Fibertech to offer local exchange voice and data services.

RESPONSE: Fibertech objects to this request insofar as it presumes that Fibertech does not currently offer local exchange voice and data service. Since SELP's position is that Fibertech's dark fiber offering is not local exchange or interexchange service, Fibertech objects to producing documents relating to any additional services it may provide as irrelevant. Fibertech further objects to producing such documents on the grounds that certain of these documents contain competitively sensitive and proprietary information and are therefore confidential. In this light, the burden of seeking protective treatment outweighs any marginal probative value of these documents.

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Witness Responsible: Charles Stockdale, VP & Corporate Counsel, Fibertech

SELP 1-13: Please refer to Paragraph 27 of the Complaint. Does Fibertech currently offer cable television service to end users in Massachusetts?

(a) If not, please provide all documents, including business plans, internal memoranda and promotional materials, if any, concerning Fibertech's intention to offer cable service to end users in Massachusetts.

(b) Also, provide all documents concerning applications, licenses, approvals and franchises applied for by Fibertech in connection with the provision of cable television service.

RESPONSE: No.

(a) See Response to SELP 1-12.

(b) Not applicable.

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Witness Responsible: Charles Stockdale, VP & Corporate Counsel, Fibertech

SELP 1-14: Please refer to Paragraph 28 of the Complaint. Does Fibertech have any leases with providers of cable television service? If so, please provide copies of any such leases.

RESPONSE: No.

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Witness Responsible: Frank Chiaino, Chief Operating Officer, Fibertech

SELP 1-15: Please provide all documents concerning "Statement of Business Operations and proposed tariff" filings referenced in Paragraph 4 of the Complaint.

RESPONSE: A copy of these documents were produced as Exhibits 3, 4 and 5 to the Direct Testimony of Frank Chiaino.

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Witness Responsible: Frank Chiaino, Chief Operating Officer, Fibertech

SELP 1-16: Please refer to Paragraph 8 of the Complaint. Please state all facts that form the basis of your claims that Fibertech is "a telecommunications provider within the meaning of 47 U.S.C. § 224."

RESPONSE: Fibertech objects to this request in that it calls for a legal conclusion. Notwithstanding and subject to this objection, Fibertech states that the dark fiber it offers permits the transmission of information from point to point.



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Witness Responsible: Frank Chiaino, Chief Operating Officer, Fibertech

SELP 1-17: Please refer to Paragraph 8 of the Complaint.

(a) Please state all facts that form the basis of your claim that Fibertech is "a common carrier within the meaning of G.L. c. 159, § 19."

(b) Does Fibertech provide any service for fee directly to any residential customer in Massachusetts?

(c) If the answer to sub-part (b) of this question is affirmative, please provide all documents concerning the provision of such service to residential customers in Massachusetts.

RESPONSE: (a) Fibertech objects to this request in that it calls for a legal conclusion. Notwithstanding and subject this objection, see responses to SELP 1-9, SELP 1-15, and SELP 1-16. Fibertech further states that it offers its dark fiber on an undifferentiated basis to any customer.

(b) Like many other common carriers certified as local exchange or interexchange carriers in Massachusetts, Fibertech does not provide services directly to residential customers. In fact, the Department has required carriers whose business plans, like Fibertech's, are aimed at large-scale business customers to specify that they will not provide service to residential customers.

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Witness Responsible: Charles Stockdale, VP & Corporate Counsel, Fibertech

SELP 1-18: Please refer to Paragraph 8 of the Complaint.

(a) Please state all facts that form the basis of your claim that Fibertech is "a person, firm or corporation authorized to construct lines along, under and across public ways."

(b) From whom did Fibertech receive such authorization and when? Please provide all documents referencing such authorization.

RESPONSE: (a) Fibertech objects to this request in that it calls for a legal conclusion. Notwithstanding and subject this objection, see responses to SELP 1-9, SELP 1-15, SELP 1-16, and SELP 1-17. Fibertech further states that it filed tariffs with the Department.

(b) From the Department of Telecommunications & Energy. See response to SELP 1-15 and Direct Testimony of Frank Chiaino.

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Witness Responsible: Charles Stockdale, VP & Corporate Counsel, Fibertech

SELP 1-19: Please refer to Paragraphs 4 and 28 of the Complaint.

(a) If Fibertech had no immediate plans to offer local exchange, interchange or data services in light of the statement in Paragraph 4 that it is "offering, initially, dark fiber for use" by others, why did Fibertech seek to register as a competitive local exchange carrier ("CLEC") with the DTE?

(b) Please provide all documents concerning Fibertech's decision to become registered as a CLEC in Massachusetts.

RESPONSE: (a) Fibertech objects to this request insofar as it presumes that Fibertech does not currently offer local exchange voice data service. Fibertech is registered as a competitive local exchange carrier with the Department in order to provide local exchange service to communications carriers (CLECs, ISPs, IXC's, ILECs), educational and government institutions and businesses as a common carrier.

(b) Other than the documents filed with DTE, there are none.